

**CRIMINAL POSSESSION
OF A WEAPON
FOURTH DEGREE
(A Misdemeanor)
(Possession of Per Se Weapons
other than Firearms)
PENAL LAW 265.01 (1)
(Committed on or after Nov. 1, 1995)¹**

The _____ count is Criminal Possession of a Weapon in the Fourth Degree.

Under our law, a person is guilty of Criminal Possession of a Weapon in the Fourth Degree when that person knowingly² possesses any electronic dart gun [or electronic stun gun] [or gravity knife] [or switchblade knife] [or pilum ballistic knife] [or metal knuckle knife] [or cane sword] [or billy] [or blackjack] [or bludgeon] [or plastic knuckles] [or metal knuckles] [or chuka stick] [or sand bag] [or sandclub] [or wrist-brace type slingshot or slungshot] [or shiriken] [or Kung Fu star].

Some of the terms used in this definition have their own special meaning in our law. I will now give you the meaning of the following terms: ["electronic dart gun"] ["electronic stun gun"] ["gravity knife"] ["switchblade knife"] ["pilum ballistic knife"] ["metal knuckle knife"] ["cane sword"] ["chuka stick"] ["Kung Fu star"], "knowingly," and "possess."

[NOTE: Select appropriate alternative:

An ELECTRONIC DART GUN means any device designed

¹ "Plastic knuckles" was added by the Laws of 2008, ch 257, effective November 1, 2008, and thus applicable to such crime committed on or after that date.

² The word "knowingly" has been added to this definition to comport with statutory law (see Penal Law § 15.05 [2]) and with case law. See *People v Ford*, 66 NY2d 428, 440 (1985); *People v Marino*, 212 AD2d 735, 736 (2d Dept 1995); *People v Cohen*, 57 AD2d 790 (1st Dept 1977).

primarily as a weapon, the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electrical shock to such person by means of a dart or projectile.³

An ELECTRONIC STUN GUN means any device designed primarily as a weapon, the purpose of which is to stun, cause mental disorientation, knock out or paralyze a person by passing a high voltage electrical shock to such person.⁴

A GRAVITY KNIFE means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device.⁵

A SWITCHBLADE KNIFE means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife.⁶

A PILUM BALLISTIC KNIFE means any knife which has a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife.⁷

A METAL KNUCKLE KNIFE means a weapon that, when closed, cannot function as a set of plastic knuckles or metal knuckles, nor as a knife and when open, can function as both a

³ See Penal Law § 265.00 (15-a).

⁴ See Penal Law § 265.00 (15-c).

⁵ See Penal Law § 265.00 (5).

⁶ See Penal Law § 265.00 (4).

⁷ See Penal Law § 265.00 (5-a).

set of metal knuckles as well as a knife.⁸

A CANE SWORD means a cane or swagger stick having concealed within it a blade that may be used as a sword or stiletto.⁹

A CHUKA STICK means any device designed primarily as a weapon, consisting of two or more lengths of a rigid material joined together by a thong, rope or chain in such a manner as to allow free movement of a portion of the device while held in the hand and capable of being rotated in such a manner as to inflict serious injury upon a person by striking or choking. These devices are also known as nunchakus and centrifugal force sticks.¹⁰

A KUNG FU STAR means a disc-like object with sharpened points on the circumference thereof and is designed for use primarily as a weapon to be thrown.]¹¹

POSSESS means to have physical possession or otherwise to exercise dominion or control over tangible property.¹²

A person KNOWINGLY possesses (*specify*) when that person is aware that he or she is in possession of such

⁸ See Penal Law § 265.00 (5-b). The language “plastic knuckles or” was added by the L 2008, ch 257, § 6, effective November 1, 2008.

⁹ See Penal Law § 265.00 (13).

¹⁰ See Penal Law § 265.00 (14).

¹¹ See Penal Law § 265.00 (15-b).

¹² See Penal Law § 10.00 (8). Where constructive possession is alleged, or where the People rely on a statutory presumption of possession, insert the appropriate instruction from the "Additional Charges" section at the end of this chapter.

(specify).¹³

In order for you to find the defendant guilty of this crime, the People are required to prove, from all of the evidence in the case, beyond a reasonable doubt, both of the following two elements:

1. That on or about (date), in the County of (County), the defendant, (defendant's name), possessed (specify); and
2. That the defendant did so knowingly.

Therefore, if you find that the People have proven beyond a reasonable doubt both of those elements, you must find the defendant guilty of the crime of Criminal Possession of a Weapon in the Fourth Degree as charged in the _____ count.

On the other hand, if you find that the People have not proven beyond a reasonable doubt either one or both of those elements, you must find the defendant not guilty of the crime of Criminal Possession of a Weapon in the Fourth Degree as charged in the _____ count.

¹³ See Penal Law § 15.05 (2).